

The Gazette of India



EXTRAORDINARY

PART II—Section 2

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HOUSE OF THE PEOPLE

The following Bill was introduced in the House of the People on 14th September 1953.—

BILL* NO. 47 OF 1953

A Bill further to amend the Indian Tariff Act, 1934

BE it enacted by Parliament as follows:—

1. Short title and commencement.—(1) This Act may be called the Indian Tariff (Second Amendment) Act, 1953.

(2) The provisions of clause (vi) of section 2 [relating to item No. 73(7)] shall come into force on the 1st day of January, 1954; but the remaining provisions shall come into force at once.

2. Amendment of the First Schedule, Act XXXII of 1934.—In the First Schedule to the Indian Tariff Act, 1934,—

(i) in Item No. 21(3), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1953", the word, figures and letters "December 31st, 1954" shall be substituted;

(ii) in Item No. 28(32), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1953", wherever they occur, the word, figures and letters "December 31st, 1955" shall be substituted;

(iii) In items Nos. 40(4) and 40(5) and in sub-item (a) of Item No. 63(33), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December

*The President has, in pursuance of clause (1) of article 117 of the Constitution of India, recommended to the House of the People the introduction of the Bill.

31st, 1953", the word, figures and letters "December 31st, 1957" shall be substituted;

(iv) in Item No. 63(30), in the entry in the second column, in sub-item (3), for the words, brackets and figures "in category (i) or (ii)" the words, brackets and figures "in category (1) or (2)" Shall be substituted;

(v) after Item No. 72(38), the following Item shall be inserted, namely:—

"72 (39)	Power and Distribution Transformers up to 2,500 KVA and 37.5 KV on the H.T. Side (primary voltage being over 250) excluding furnace, rectifier and flame-proof transformers.	Protective	10 per cent. <i>ad valorem</i> .		..	December 31st, 1955 ;"
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(vi) in Item No. 73(1), in the entry in the second column,—

(a) after the words, "Apparatus and Appliances", the words, brackets and figures "other than those specified in Item No. 73(16)", shall be inserted, and

(b) for the words, "excluding electrical earthenware and porcelain otherwise specified", the words "excluding electrical earthenware, brassware and porcelain otherwise specified" shall be substituted;

(vii) in Item No. 73(7),—

(a) in the third column, for the word "Protective", the word "Revenue" shall be substituted: and

(b) the entry in the last column headed "Duration of protective rates of duty" shall be omitted.

(viii) in Item No. 75(11) (iv), in the entry in the second column, the words "body panels including turret tops and sides for passenger cars" shall be omitted;

(ix) after Item No. 75(13), the following Item shall be inserted, namely:—

"75 (14)	Body panels including turret tops and sides for passenger motor cars including taxi cabs.	Preferential Revenue.	40 per cent. <i>ad valorem</i> .	37 per cent. <i>ad valorem</i> "
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STATEMENT OF OBJECTS AND REASONS

The object of the present Bill is to amend the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934) in order to grant protection to the Power and Distribution Transformers industry and to continue or discontinue protection to certain other industries on the advice of the Tariff Commission.

2. The industries which will continue to be protected are:—

Item No. of Tariff	Name of the industry
21 (3)	Glucose.
28 (32)	Hydroquinone.
40 (4) and 40 (5)	Plywood and battens for teacheats
63 (33) (a)	Iron or steel wood-screws.

3. Protection will be discontinued in respect of the Dry battery industry from the 1st January, 1954.

4. The Bill also seeks to ratify by law the Notification of the Government of India in the Ministry of Commerce and Industry No. 21(1)T.B./52, dated the 31st May, 1953, enhancing the customs duty on body panels including turret tops and sides for passenger cars on the advice of the Tariff Commission.

5. Opportunity has also been taken to carry out a minor amendment of a formal character.

T. T. KRISHNAMACHARI

NEW DELHI;

The 8th September, 1953

M. N. KAUL,

Secretary.

COUNCIL OF STATES

The following Bills were introduced in the Council of States on the 14th September, 1953:—

Bill No. XXII of 1953.

A Bill to amend the Employees' Provident Funds Act, 1952.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Employees' Provident Funds (Amendment) Act, 1953.

2. Amendment of section 1, Act XIX of 1952.—In section 1 of the Employees' Provident Funds Act, 1952 (hereinafter referred to as the principal Act), after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Notwithstanding anything contained in sub-section (3) of this section or sub-section (1) of section 16, where it appears to the Central Government, whether on an application made to it in this behalf or otherwise, that the employer and the majority of employees in relation to any factory have agreed that the provisions of this Act should be made applicable to the factory, it may, by notification in the Official Gazette, apply the provisions of this Act to that factory.”

3. Amendment of section 2, Act XIX of 1952.—In section 2 of the principal Act,—

(i) after clause (j), the following clauses shall be inserted, namely:—

“(ff) ‘exempted employee’ means an employee to whom a Scheme would, but for the exemption granted under sub-section (1) of section 17, have applied;

(fff) ‘exempted factory’ means a factory in respect of which an exemption has been granted under section 17 from the operation of all or any of the provisions of any Scheme, whether such exemption has been granted to the factory as such or to any person or class of persons employed therein;”;

(ii) after clause (i), the following clause shall be inserted, namely:—

“(ia) ‘manufacture’ means making, altering, ornamenting, finishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;”.

4. Amendment of section 5, Act XIX of 1952.—Section 5 of the principal Act shall be re-numbered as sub-section (1) thereof and—

(a) to sub-section (1) as so re-numbered, the words “and there shall be established, as soon as may be after the framing of the Scheme, a Fund in accordance with the provisions of this Act and the Scheme” shall be added;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) A Scheme framed under sub-section (1) may provide that any of its provisions shall come into force either prospectively or retrospectively with effect from such date as may be specified in this behalf in the Scheme”.

5. Amendment of section 6, Act XIX of 1952.—In section 6 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Where under the provisions of any Scheme, any board of trustees is constituted for administering the Fund, such board of trustees shall be a body corporate under the name specified

in the Scheme, having perpetual succession and a common seal and shall by the said name sue and be sued".

6. Substitution of new section for section 8 of Act XIX of 1952.—For section 8 of the principal Act, the following section shall be substituted, namely:—

"8. Mode of recovery of moneys due from employers.—Any amount due—

(a) from the employer in relation to a factory to which any Scheme applies in respect of any contribution payable to the Fund, damages recoverable under section 14B, accumulations required to be transferred under sub-section (2) of section 15 or any charges payable by him under any other provision of this Act or of any provision of the Scheme; or

(b) from the employer in relation to an exempted factory in respect of any damages recoverable under section 14B or any charges payable by him to the appropriate Government under any provision of this Act or under any of the conditions specified under section 17,

may, if the amount is in arrear, be recovered by the appropriate Government in the same manner as an arrear of land revenue".

7. Amendment of section 9, Act XIX of 1952.—To section 9 of the principal Act, the following proviso shall be added, namely:—

"Provided that nothing contained in the said Chapter shall operate to render ineffective any provision of the Scheme (under which the Fund is established) which is repugnant to any of the provisions of that Chapter or of the rules made thereunder."

8. Amendment of section 10, Act XIX of 1952.—In section 10 of the principal Act,—

(a) in sub-section (1),—

(i) after the words "of any member in the Fund", the words "or of any exempted employee in a provident fund" shall be inserted;

(ii) after the words "incurred by the member", the words "or the exempted employee" shall be inserted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Any amount standing to the credit of a member in the Fund or of an exempted employee in a provident fund at the time of his death and payable to his nominee under the Scheme or the rules of the provident fund shall, subject to any deduction authorised by the said Scheme or rules, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the member or of the exempted employee".

9. Amendment of section 11, Act XIX of 1952.—In section 11 of the principal Act, for the words beginning with "The amount due

in respect of any contribution" and ending with the words "be deemed to be included", the following shall be substituted, namely:—

"Where any employer is adjudicated insolvent or, being a company, an order for winding up is made, the amount due—

(a) from the employer in relation to a factory to which any Scheme applies in respect of any contribution payable to the Fund, damages recoverable under section 14B, accumulations required to be transferred under sub-section (2) of section 15 or any charges payable by him under any other provision of this Act or of any provision of the Scheme; or

(b) from the employer in relation to an exempted factory in respect of any contribution to the provident fund, (in so far as it relates to exempted employees), under the rules of the provident fund, damages recoverable under section 14B or any charges payable by him to the appropriate Government under any provision of this Act or under any of the conditions specified under section 17,

shall, where the liability therefor has accrued before the order of adjudication or winding up is made, be deemed to be included".

10. Substitution of new section for section 12 in Act XIX of 1952.—For section 12 of the principal Act, the following section shall be substituted, namely:—

"12. *Employer not to reduce wages, etc.*—No employer in relation to a factory to which any Scheme applies shall, by reason only of his liability for the payment of any contribution to the Fund or any charges under this Act or the Scheme, reduce, whether directly or indirectly, the wages of any employee to whom the Scheme applies or the total quantum of benefits in the nature of old age pension, gratuity or provident fund to which the employee is entitled under the terms of his employment, express or implied."

11. Amendment of section 13, Act XIX of 1952.—In sub-section (2) of section 13 of the principal Act,—

(a) after the words "have been complied with" the following shall be inserted, namely:—

"in respect of a factory to which any Scheme applies or for the purpose of ascertaining whether the provisions of this Act or any Scheme are applicable to any factory to which the Scheme has not been applied or for the purpose of determining whether the conditions subject to which exemption was granted under section 17 are being complied with by the employer in relation to an exempted factory";

(b) in clause (a), the words "in relation to the Scheme" shall be omitted.

12. Amendment of section 14, Act XIX of 1952.—In section 14 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Whoever contravenes or makes default in complying with any provision of this Act or of any condition subject to which exemption was granted under section 17 shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.”

13. Insertion of new sections 14A and 14B in Act XIX of 1952.—After section 14 of the principal Act, the following sections shall be inserted, namely:—

“14A. *Offences by companies.*—(1) If the person committing an offence under this Act or the rules made thereunder is a company, every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or the rules thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) ‘company’ means any body corporate and includes a firm and other association of individuals; and

(b) ‘director’ in relation to a firm, means a partner in the firm.

14B. Power to recover damages.—Where an employer makes default in the payment of any contribution to the Fund or in the transfer of accumulations required to be transferred by him under sub-section (2) of section 15 or in the payment of any charges payable under any other provision of this Act or of any Scheme or under any of the conditions specified under section 17, the appropriate Government may recover from the employer such damages, not exceeding twenty-five per cent. of the amount of arrears, as it may think fit to impose.”

14. Amendment of section 15, Act XIX of 1952.—In section 15 of the principal Act,—

(a) in sub-section (1), for the words, figures and letters “Every employee who is a subscriber to any provident fund established by the employer and in existence on the 15th day of November, 1951, shall, pending the framing of a Scheme in respect of”, the words and figures “Subject to the provisions of section 17, every employee who is a subscriber to any provident fund of a factory to which this Act applies shall, pending the application of a Scheme to” shall be substituted;

(b) in sub-section (2), for the words, brackets and figure “On the framing of any such Scheme as is referred to in sub-section (1), the accumulations standing to the credit of the employees in the provident fund”, the words “On the application of any Scheme to a factory, the accumulations in any provident fund of the factory standing to the credit of the employees who become members of the Fund established under the Scheme” shall be substituted.

15. Amendment of section 16, XIX of 1952.—Section 16 of the principal Act shall be re-numbered as sub-section (1) thereof and—

(a) to sub-section (1) as so re-numbered, the following *Explanation* shall be added, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that the date of the establishment of a factory shall not be deemed to have been changed merely by reason of a change of the premises of the factory”;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) If the Central Government is of opinion that having regard to the financial position of any class of factories or other circumstances of the case, it is necessary or expedient so to do, it may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt that class of factories from the operation of this Act for such period as may be specified in the notification.”

16. Substitution of new section for section 17 in Act XIX of 1952.—For section 17 of the principal Act, the following section shall be substituted, namely:—

“17. *Power to exempt.*—(1) The appropriate Government may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt from the operation of all or any of the provisions of any Scheme—

(a) any factory to which this Act applies if, in the opinion of the appropriate Government, the rules of its provident fund with respect to the rates of contribution are not less favourable than those specified in section 6 and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the

employees than the benefits provided under this Act or any Scheme in relation to the employees in any other factory of a similar character; or

(b) any factory if the employees of such factory are in enjoyment of benefits in the nature of provident fund, pension or gratuity and the appropriate Government is of opinion that such benefits, separately or jointly, are on the whole not less favourable to such employees than the benefits provided under this Act or any Scheme in relation to employees in any other factory of a similar character.

Explanation.—The following conditions shall be deemed to be always included in the conditions which may be specified in a notification under clause (a), namely:—

(i) the amount of accumulations in the provident fund shall be invested in such manner as the Central Government may direct;

(ii) the amount of accumulations to the credit of an employee in the provident fund shall, where he leaves his employment and obtains re-employment in another factory to which this Act applies, be transferred, within such time as may be specified in this behalf by the Central Government, to the credit of his account in the provident fund of the factory in which he is re-employed or, as the case may be, in the Fund established under the Scheme applicable to the factory.

(2) Any Scheme may make provision for exemption of any person or class of persons employed in any factory to which the Scheme applies from the operation of all or any of the provisions of the Scheme, if such person or class of persons is entitled to benefits in the nature of provident fund, gratuity or old age pension and such benefits, separately or jointly, are on the whole not less favourable than the benefits provided under this Act or the Scheme:

Provided that no such exemption shall be granted in respect of a class of persons unless the appropriate Government is of opinion that the majority of persons constituting such class desire to continue to be entitled to such benefits.

(3) Where any person or class of persons employed in a factory is exempted from the operation of all or any of the provisions of any Scheme under sub-section (2), the employer in relation to such a factory—

(a) shall, in relation to the provident fund, old age pension and gratuity to which such person or class of persons is entitled, maintain such accounts, submit such returns, make such investment, provide for such facilities for inspection and pay such inspection charges, as the Central Government may direct; and

(b) shall not, at any time after the exemption, without the leave of the Central Government, reduce the total quantum of benefits in the nature of old age pension,

gratuity or provident fund to which such person or class of persons was entitled at the time of the exemption."

17. Substitution of new sections for section 19 in Act XIX of 1952.—For section 19 of the principal Act, the following sections shall be substituted, namely:—

"19. *Delegation of powers.*—The appropriate Government may direct that any power or authority or jurisdiction exercisable by it under this Act or any Scheme shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also—

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification; and

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.

19A. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, and in particular, if any doubt arises as to—

(i) whether a factory is engaged in any industry specified in Schedule I; or

(ii) whether fifty or more persons are employed in a factory; or

(iii) whether three years have elapsed from the establishment of a factory; or

(iv) whether the total quantum of benefits to which an employee is entitled has been reduced by the employer,

the Central Government may, by order, make such provision or give such direction, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of the doubt or difficulty; and the order of the Central Government, in such cases, shall be final.

18. Amendment of Schedule I, Act XIX of 1952.—In Schedule I to the principal Act,—

(i) the words 'or production' shall be omitted;

(ii) to the Schedule I, the following *Explanation* shall be added, namely:—

"*Explanation.*—In this Schedule, without prejudice to the ordinary meaning of the expressions used therein,—

(a) the expression 'Electrical, mechanical or general engineering products' includes—

(1) machinery and equipment for the generation, transmission, distribution or measurement of

electrical energy and motors including cables and wires,

(2) telephones, telegraph and wireless communication apparatus,

(3) electric lamps (not including glass bulbs),

(4) electric fans and electrical domestic appliances,

(5) storage and dry batteries,

(6) radio receivers and sound reproducing instruments,

(7) machinery used in industry (including textile machinery) other than electrical machinery and machine tools,

(8) boilers and prime movers, including internal combustion engines, marine engines and locomotives,

(9) machine tools, that is to say, metal and wood working machinery,

(10) grinding wheels,

(11) ships,

(12) automobiles and tractors,

(13) bolts, nuts and rivets,

(14) power driven pumps,

(15) bicycles,

(16) hurricane lanterns,

(17) sewing and knitting machines,

(18) mathematical and scientific instruments,

(19) products of metal rolling and re-rolling,

(20) wires, pipes, tubes and fittings,

(21) ferrous and non-ferrous castings,

(22) safes, vaults and furniture made of iron or steel or steel alloys,

(23) cutlery and surgical instruments,

(24) drums and containers,

(25) parts and accessories of products specified in items 1 to 24;

(b) the expression 'Iron and Steel' includes pig iron, ingots, blooms, billets and rolled or re-rolled products into basic forms and tool and alloy steel;

(c) the expression 'Paper' includes pulp, paper board and straw-board;

(d) the expression 'textiles' includes the products of carding, spinning, weaving, finishing and dyeing yarn and fabrics, printing, knitting and embroidering.

STATEMENT OF OBJECTS AND REASONS

The working of the Employees' Provident Funds Act has brought out certain defects.

The principal defect relates to the application of the Act and the Scheme. There are considerable doubts regarding the expressions used in Schedule I. No authority has been prescribed for removing doubts and difficulties. There is no power for applying the Scheme to a factory not covered by the Act even when the employer and the employees ask for such application.

At present the employees of exempted factories are not entitled to the benefits of nomination, protection against attachment or prior claim on the assets of an insolvent employer. It is not possible to grant exemption to any factory from the operation of the Scheme on economic grounds.

There are also certain administrative difficulties to be set right. There is no provision for inspection of exempted factories; nor is there any provision for the recovery of dues from such factories. An employer can delay payment of provident fund dues without any additional financial liability. No punishment has been laid down for contraventions of some of the provisions of the Act.

This Bill seeks primarily to remedy these defects.

V. V. GIRI.

NEW DELHI;

The 4th September, 1953.

Bill No. XXIII of 1953.

A Bill to provide for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected children and juvenile delinquents in Part C States.

BE it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Children Act, 1953.

(2) It extends to all the Part C States.

(3) This section shall come into force at once; and the State Government may, by notification in the Official Gazette, direct that the other provisions of this Act or any provision thereof specified

In the notification shall come into force in the whole of the State or any area thereof on such date as it may by the notification appoint, and different dates may be appointed for different provisions of this Act and for different areas within the State:

Provided that in issuing such a notification, the State Government may direct that the said provisions shall not apply to such class of children as may be specified in the notification.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) "adult" means a person who is not a child;
- (b) "child" means a person who has not attained the age of sixteen years;
- (c) "children's court" means a separate court established under section 4;
- (d) "children's home" means an institution, established or certified by the State Government under section 7, for the reception and protection of neglected children;
- (e) "competent court" means a children's court, and where such a court has not been constituted, includes any court empowered by sub-section (2) of section 5 to exercise the powers conferred on a children's court;
- (f) "guardian" in relation to a child, includes any person who, in the opinion of the court having cognizance of any proceeding in relation to a child, has for the time being the actual charge of, or control over, that child;
- (g) "juvenile delinquent" means a child who has been found to have committed an offence other than an offence punishable with death or transportation for life;
- (h) "neglected child" means a child who—
 - (i) is found in any street or place of public resort begging or receiving alms, or for the purpose of so begging or receiving alms, whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise; or
 - (ii) is found without having any home or settled place of abode or any ostensible means of subsistence or is found destitute, whether he is an orphan or not; or
 - (iii) has a parent or guardian who is unfit to exercise or does not exercise proper care and control over the child; or
 - (iv) lives in a brothel or with a prostitute or frequently goes to any place used for the purpose of prostitution, or is found to associate with any prostitute or any other person who leads an immoral, drunken or depraved life;
- (i) "observation home" means any institution or place established or recognised by the State Government under

section 8 for the temporary reception of a child during the pendency of an inquiry regarding him;

(j) "offence" means an offence punishable under any law for the time being in force with imprisonment or fine or with both but does not include an offence punishable with death or transportation for life;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "probation officer" means an officer appointed as a probation officer under this Act;

(m) "special school" means an institution, established or certified by the State Government under section 7, for the reception and training of juvenile delinquents;

(n) "State Government" in relation to a Part C State, means the Lieutenant-Governor or, as the case may be, the Chief Commissioner;

(o) "supervision", in relation to a child placed under the care of any parent, guardian or other fit person under this Act, means the supervision of that child by a probation officer for the purpose of ensuring that the child is properly looked after and that the conditions imposed by the competent court are complied with;

(p) all words and expressions used but not defined in this Act and defined in the Code of Criminal Procedure, 1898 (Act V of 1898) shall have the meanings assigned to them in that Code.

3. Continuation of inquiry in respect of a child on his attaining sixteen years.—For the purposes of this Act, a person shall be deemed to be a child if he has not attained the age of sixteen years at the time of the initiation of any inquiry regarding him under this Act or at the time of his arrest in connection with which an inquiry is initiated regarding him under this Act:

Provided that if during the course of such inquiry, such person attains the age of sixteen years, the inquiry already commenced shall be continued and orders may be made in respect of such person under this Act as if such person was a child, notwithstanding anything to the contrary contained in this Act.

CHAPTER II

COMPETENT COURTS AND CERTAIN INSTITUTIONS UNDER THE ACT

4. Children's Courts.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the State Government may, by notification in the Official Gazette, constitute for any area specified in the notification, one or more children's courts for holding inquiries regarding neglected children and juvenile delinquents under this Act.

(2) A children's court shall be presided over by one magistrate or a Bench consisting of two or more magistrates as the State Government thinks fit to appoint, and where a Bench is so constituted, one

of the magistrates shall be designated as the senior magistrate and one of them shall, as far as practicable, be a woman.

(3) In the event of any difference of opinion among the magistrates constituting a Bench, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the senior magistrate shall prevail.

(4) A children's court, where it is presided over by a Bench of magistrates, may act notwithstanding the absence of any of the magistrates, and no order made by the Bench shall be invalid by reason only of the absence of any of the magistrates during any stage of the hearing of the proceeding.

(5) No person shall be appointed to preside over a children's court unless he is a magistrate of the first class and has, in the opinion of the State Government, special knowledge of juvenile delinquency and child welfare.

5. Powers of children's court and other courts.—(1) Where a children's court has been constituted for any area, such court shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, have power to deal exclusively with all proceedings relating to neglected children and juvenile delinquents under this Act.

(2) Where no children's court has been constituted for any area, the powers conferred on the children's court by or under this Act shall be exercised in that area, only by the following, namely:—

(a) the district magistrate; or

(b) the sub-divisional magistrate; or

(c) any salaried magistrate of the first class.

(3) The powers conferred on the children's court by or under this Act shall also be exercisable by the High Court and the court of session, whether the proceeding comes before them in appeal, revision or otherwise.

6. Procedure to be followed by a magistrate not empowered under this Act.—(1) When any magistrate not empowered to exercise the powers of a children's court under this Act is of opinion that a person brought before him under any of the provisions of this Act (otherwise than for the purpose of giving evidence) is a child, he shall record such opinion and forward the child and the record of the proceeding to the competent court having jurisdiction over the proceeding.

(2) The competent court to which the proceeding is forwarded under sub-section (1) shall hold the inquiry as if the child had originally been brought before it.

7. Special schools and children's homes.—(1) The State Government may establish and maintain as many special schools or children's homes as may be necessary for the reception of juvenile delinquents or, as the case may be, neglected children who may be sent there in pursuance of this Act.

(2) Where the State Government is of opinion that any institution not established under sub-section (1) is fit for the reception of juvenile delinquents or neglected children to be sent there in pursuance of this Act, the State Government may certify such institution as a special school or, as the case may be, a children's home for the purposes of this Act.

(3) It shall be the duty of every special school or children's home to which a juvenile delinquent or neglected child is sent under this Act to provide accommodation and maintenance for the child and to provide facilities so as to further his best interests and to afford him opportunity for the proper development of his character and abilities and such special school or children's home shall perform such other functions as may be prescribed.

(4) The State Government may, by rules made under this Act, provide for the management of special schools or children's homes and the circumstances under which, and the manner in which, the certificate of any special school or children's home may be withdrawn.

8. Observation homes.—(1) The State Government may establish and maintain as many observation homes as may be necessary for the temporary reception of children during the pendency of any inquiry regarding them under this Act and such observation homes shall be maintained in such manner as may be prescribed.

(2) Where the State Government is of opinion that any institution not established under sub-section (1) is fit for the temporary reception of children during the pendency of any inquiry regarding them under this Act, the State Government may recognise such institution as an observation home for the purposes of this Act.

9. After-care organisations.—(1) The State Government may by rules made under this Act, provide for the establishment or recognition of after-care organisations and may vest them with such powers as may be necessary for effectively carrying out their functions under this Act.

(2) Every such organisation shall take care of the children when they leave children's homes or special schools and shall, for the purpose of enabling them to lead an honest, industrious and useful life, take all such measures as it may deem fit as may be prescribed.

CHAPTER III

NEGLECTED CHILDREN

10. Production of neglected children before competent courts.—

(1) Any police officer or other person authorised by the State Government in this behalf may, if he is of opinion that a person apparently under the age of sixteen years is a neglected child, take that person into custody for bringing him before a competent court.

(2) When information is given to an officer-in-charge of a police station about any neglected child found within the limits of such

station, he shall enter in a book to be kept for the purpose the substance of such information and take such action thereon as he deems fit.

(3) Every child taken into custody under sub-section (1) shall be brought before the competent court within a period of twenty-four hours of such custody excluding the time necessary for the journey from the place where the child had been taken into custody to the competent court.

11. Special procedure to be followed when the neglected child has parent.—(1) If a person, who in the opinion of the police officer or the authorised person is a neglected child, has a parent or guardian who has the actual charge of, or control over, the child, the police officer or the authorised person may, instead of taking the child into custody make a report to the competent court for initiating an inquiry regarding that child.

(2) On receipt of a report under sub-section (1), the competent court may call upon the parent or guardian to produce the child before it and to show cause why the child should not be dealt with as a neglected child under the provisions of this Act and if it appears to the competent court that the child is likely to be removed from its jurisdiction or to be concealed, it may immediately order his removal (if necessary by issuing a search warrant for the immediate production of the child) to an observation home.

12. Inquiry by competent court regarding neglected children.—(1) When a person alleged to be a neglected child is produced before a competent court, it shall examine the police officer or the authorised person who brought the child or made the report and record the substance of such examination and hold the inquiry in the prescribed manner and may make such orders in relation to the child as it may deem fit.

(2) Where a competent court is satisfied on inquiry that the child is a neglected child and that it is expedient so to deal with him, the competent court may make an order directing the child to be sent to a children's home for being kept there until he attains the age of sixteen years:

Provided that the competent court may, for reasons to be recorded, extend the period of such stay, but in no case the period of stay shall extend beyond the time when the child attains the age of eighteen years.

13. Power to commit neglected child to suitable custody.—(1) If the competent court so thinks fit, it may, instead of making an order for sending the child to a children's home, make an order placing the child under the care of a parent, guardian or other fit person, on such parent, guardian or fit person executing a bond with or without surety to be responsible for the good behaviour and well-being of the child and for the observance of such conditions as the competent court may think fit to impose.

(2) At the time of making an order under sub-section (1) or at any time subsequently, the competent court may, in addition, make an order that the child be placed under supervision for any period not exceeding three years in the first instance.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), if at any time, it appears to the competent court on receiving a report from the probation officer or otherwise, that there has been a breach of any of the conditions imposed by it in respect of the child, it may, after making such inquiry as it deems fit, order the child to be sent to a children's home.

14. Uncontrollable children.—Where a parent or guardian of a child complains to the competent court that he is not able to control his child and the competent court is satisfied on inquiry that proceedings under this Act should be initiated regarding the child, it may send the child to an observation home and make such further inquiry as it may deem fit and the provisions of sections 12 and 13 shall, as far as may be, apply to such proceedings.

CHAPTER IV

JUVENILE DELINQUENTS

15. Bail and custody of children.—(1) When a person apparently under the age of sixteen years is arrested or detained on a charge of an offence, whether bailable or not, or appears or is brought before a competent court, such person shall be released on bail with or without surety but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any reputed criminal or expose him to moral danger or that his release would defeat the ends of justice.

(2) When such a person having been arrested is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause him to be kept in an observation home in the prescribed manner (but not in a police station or jail) until he can be brought before a competent court.

(3) When such a person is not released on bail under sub-section (1) by the competent court, it shall, instead of committing him to prison, send him to an observation home for such period during the pendency of the inquiry regarding him as may be specified in the order.

16. Information to parent or guardian or probation officer.—Where a child is arrested, the officer in charge of the police station to which the child is brought shall, as soon as may be after the arrest, inform—

(a) the parent or guardian of the child, if he can be found, of such arrest and direct him to be present at the competent court before which the child will appear;

(b) the probation officer of such arrest in order to enable him to obtain information regarding the antecedents and family history of the child and other material circumstances likely to be of assistance to the competent court for making the inquiry.

17. Inquiry by competent court regarding juvenile delinquents.—Where a child having been charged with an offence appears or is produced before a competent court, the competent court shall hold the inquiry in accordance with the provisions of section 36 and may, subject to the provisions of this Act, make such order in relation to the child as it deems fit.

18. Orders that may be passed regarding juvenile delinquents.—

(1) Where a competent court is satisfied on inquiry that a child has committed an offence, then, notwithstanding anything to the contrary contained in any law for the time being in force, the competent court may, if it so thinks fit,—

(a) make an order directing the child to be sent to a special school for such period of stay as it may consider necessary for the proper training of the child:

Provided that in no case the period of stay shall extend beyond the time when the child attains the age of eighteen years;

(b) allow the child to go home after advice or admonition;

(c) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person on such parent, guardian or fit person executing a bond, with or without surety as the competent court may require, for the good behaviour and well-being of the juvenile delinquent for any period not exceeding three years;

(d) order the child to pay a fine, if the offence committed by him is punishable with fine and he is over the age of fourteen years and earns money.

(2) Where the competent court makes an order under clause (b) or clause (c) or clause (d) of sub-section (1), it may, in addition, make an order that the juvenile delinquent be placed under supervision:

Provided that if at any time afterwards it appears to the competent court on receiving a report from the probation officer or otherwise, that the juvenile delinquent has not been of good behaviour during the period of supervision, it may, after making such inquiry as it deems fit, order the juvenile delinquent to be sent to a special school.

19. Orders that may not be passed against juvenile delinquents.—

(1) Notwithstanding anything to the contrary contained in any law for the time being in force, no juvenile delinquent shall be sentenced to imprisonment or committed to prison in default of payment of fine or in default of furnishing security:

Provided that where a child who has attained the age of fourteen years has committed an offence and the competent court is satisfied that the offence committed is of so serious a nature or that his conduct and behaviour has been such that it would not be in his interest or in the interest of other children in a special school to send him to such special school and that none of the other measures provided for under this Act is suitable or sufficient, the competent court may sentence him to imprisonment for a period not exceeding the maximum period of imprisonment to which the child could have been sentenced for the offence committed and the competent court shall report the case to the State Government.

(2) On receipt of a report from a competent court under sub-section (1), the State Government may make such arrangement in respect of the child as it deems proper and may at any time order

the child to be released from prison on such conditions, if any, as the State Government thinks fit.

20. Power to order parent to pay fine, etc.—(1) Where the offence committed is punishable with fine and the juvenile delinquent is under fourteen years of age, the competent court shall order that the fine be paid by the parent or guardian of the child, unless the competent court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child.

(2) An order under this section may be made against a parent or guardian who, having been required to attend has failed to do so, but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(3) Any order directing that a parent or guardian shall pay fine under this section may be enforced as though it were an order passed under the Code of Criminal Procedure, 1898 (Act V of 1898).

21. Adjournment *sine die*.—Notwithstanding anything contained in this Act or any other law, the competent court may adjourn *sine die* any inquiry regarding a child alleged to have committed an offence and may, on additional grounds or materials being placed before it, re-open the inquiry at the stage at which it was left when adjourned.

22. No proceeding under Chapter VIII of the Criminal Procedure Code against the child.—Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898 (Act V of 1898), no proceeding shall be instituted and no order shall be passed against a child under Chapter VIII of the said Code.

23. No joint trial of child and adult.—(1) Notwithstanding anything contained in section 239 of the Code of Criminal Procedure, 1898 (Act V of 1898), or any other law for the time being in force, no child shall be charged with, or tried for, any offence together with an adult.

(2) If a child is accused of an offence for which under section 239 of the Code of Criminal Procedure, 1898, or any other law for the time being in force, such child and an adult would, but for the prohibition contained in sub-section (1), have been charged and tried together, the court taking cognizance of that offence shall direct separate trials of the child and the adult.

24. Special provision in respect of pending cases.—Notwithstanding anything contained in this Act, all proceedings in respect of a child pending in any court in any area on the date on which this Chapter comes into force in that area, shall be continued in that court as if this Act had not been passed and if the court of trial finds that the child has committed an offence, it shall record such finding and, instead of passing any sentence in respect of the child, forward the child to the competent court which shall pass orders in respect of that child in accordance with the provisions of this Act as if it had been satisfied on inquiry under this Act that the child has committed the offence.

CHAPTER V

CERTAIN POWERS AND FUNCTIONS OF COMPETENT COURTS AND APPEALS AND
REVISION FROM ORDERS OF SUCH COURTS

25. Sittings, etc., of children's courts.—(1) A children's court shall hold its sittings at such place, on such day and in such manner, as may be prescribed.

(2) A magistrate empowered to exercise the powers of a children's court under sub-section (2) of section 5 shall, while holding any inquiry regarding a child under this Act, as far as practicable, sit in a building or room different from that in which the ordinary sittings of the court are held, or on different days or at times different from those at which the ordinary sittings of the court are held.

26. Presence of persons in children's court.—(1) Save as provided in this Act, no person shall be present at any sitting of a competent court, except—

(a) the officers of the competent court, or

(b) the parties to the inquiry before the competent court, parent or guardian of the child and other persons directly concerned in the inquiry including police officers, and

(c) such other persons as the competent court may permit to be present.

(2) Notwithstanding anything contained in sub-section (1), if at any stage during an inquiry, a competent court considers it to be expedient in the interest of the child or on grounds of decency or morality that any person including the parent, guardian or the child himself should withdraw, the competent court may give such direction, and if any person refuses to comply with such direction, the competent court may have him removed and may, for this purpose, cause to be used such force as may be necessary.

27. Dispensing with attendance of child.—If at any stage during the course of an inquiry, a competent court is satisfied that the attendance of the child is not essential for the purpose of the inquiry, the competent court may dispense with his attendance and proceed with the inquiry in the absence of the child.

28. Attendance of parent or guardian of the child.—Any competent court before which a child is brought under any of the provisions of this Act may, whenever it so thinks fit, require any parent or guardian having the actual charge of, or control over, the child to be present at any proceeding in respect of the child:

Provided that nothing in this section shall be deemed to require the attendance of a parent or guardian of a child who, before the initiation of the proceeding, was removed from the custody or charge of his parents by an order of the competent court.

29. Presumption and determination of age.—(1) Wherever any person is brought before any competent court under any of the provisions of this Act (otherwise than for the purpose of giving evidence) and it appears to the competent court that he is a child, the

competent court shall make due inquiry as to the age of that person and for that purpose shall take such evidence as may be forthcoming and shall record the finding whether the person is a child or not, stating his age as nearly as may be.

(2) No order of a competent court shall be invalidated merely by any subsequent proof that the person in respect of whom the order has been made is not a child, and the age presumed or declared by the competent court to be the age of the person so brought before it shall, for the purposes of this Act, be deemed to be the true age of that person.

30. Circumstances to be taken into consideration in making orders under this Act.—For the purpose of making any order in respect of a child under this Act, a competent court shall have regard to the following circumstances, namely:—

(a) the age of the child;

(b) the circumstances in which the child is living;

(c) the reports made by the probation officer;

(d) the religious persuasion of the child;

(e) such other circumstances as may, in the opinion of the competent court, require to be taken into consideration in the interests of the child:

Provided that in the case of a juvenile delinquent, the above circumstances shall be taken into consideration after the competent court has recorded a finding against the child that he has committed the offence.

31. Sending a child outside jurisdiction.—In the case of a neglected child or juvenile delinquent whose ordinary place of residence lies outside the jurisdiction of the competent court before which he is brought, the competent court may, if satisfied after due inquiry that it is expedient so to do, send the neglected child or juvenile delinquent back to a relative or other person who is fit and willing to receive him at his ordinary place of residence and exercise proper care and control over him, notwithstanding that such place of residence is outside the jurisdiction of the competent court.

32. Reports to be treated confidential.—The report of the probation officer or any other report considered by the competent court under section 30 shall be treated as confidential:

Provided that if such report relates to the character, health or conduct of, or the circumstances in which, the child or parent is living, the competent court may, if it thinks it expedient, communicate the substance thereof to the child or parent concerned, as the case may be, and may give the child or parent an opportunity to produce such evidence as may be relevant to the matter stated in the report

33. Prohibition of publication of names, etc., of children involved in any proceeding under this Act.—(1) No report in any newspaper, magazine or news sheet of any inquiry regarding a child under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the child, nor shall any picture of any such child be published:

Provided that for reasons to be recorded in writing, the court holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interest of child welfare and is not likely to affect adversely the interests of the child concerned.

(2) Any person contravening the provisions of sub-section (1) shall be punishable with fine which may extend to one thousand rupees.

34. Appeals against orders of competent courts.—(1) Subject to the provisions of this section, any person aggrieved by an order made by a competent court under this Act may, within thirty days from the date of such order, prefer an appeal to the court of session:

Provided that the court of session may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) No appeal shall lie from any order made by a competent court in respect of a neglected child unless the appeal is preferred by the parent or guardian of the child and the order of the court of session passed in any such appeal shall be final and no appeal shall lie from any such order of the court of session.

35. Appeals to High Court and revision.—(1) Any person aggrieved by a finding of a court of session under this Act that a child has committed an offence may, within sixty days from the date of the order, prefer an appeal to the High Court:

Provided that the High Court may entertain the appeal after the expiry of the said period of sixty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The High Court may, at any time, either of its own motion or on an application received in this behalf, call for the record of any proceeding in which any competent court or court of session has passed an order for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it thinks fit:

Provided that the High Court shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

36. Procedure to apply to inquiries, appeals and revision proceedings.—(1) Save as otherwise expressly provided by this Act, a competent court, while holding any inquiry under any of the provisions of this Act, shall follow such procedure as may be prescribed and subject thereto, shall follow, as far as may be, the procedure laid down in the Code of Criminal Procedure, 1898 (Act V of 1898) for summary trials in summons cases in which appeals lie.

(2) Save as otherwise expressly provided by or under this Act, the procedure to be followed in hearing appeals or revision proceedings under this Act shall be, as far as practicable, in accordance with the provisions of the Code of Criminal Procedure, 1898.

37. Power to amend orders.—(1) Without prejudice to the provisions for appeal and revision under this Act, any competent court may, either on its own motion or on an application received in this behalf, amend any order as to the institution to which a child is to be sent or as to the person under whose care or supervision a child is to be placed under this Act.

(2) Clerical mistakes in orders passed by a competent court or errors arising therein from any accidental slip or omission may, at any time, be corrected by the competent court either on its own motion or on an application received in this behalf.

CHAPTER VI

MISCELLANEOUS

38. Power of State Government to discharge and transfer children.—(1) The State Government may, at any time, order a neglected child or a juvenile delinquent to be discharged from the children's home or special school, either absolutely or on such conditions as the State Government may think fit to impose.

(2) The State Government may order—

(a) a neglected child to be transferred from one children's home to another;

(b) a juvenile delinquent to be transferred from one special school to another or from a special school to a borstal school where such school exists or from a special school to a children's home;

(c) a child who has been released on licence, which has been revoked or forfeited, to be sent to the special school or children's home from which he was released or to any other children's home or special school:

Provided that the total period of the stay of the child in a children's home or a special school shall not be increased by such transfer.

(3) The State Government may, at any time, discharge a child from the care of any person under whom he was placed under this Act either absolutely or on such conditions as the State Government may think fit to impose.

39. Transfer of children of unsound mind or suffering from leprosy.—(1) Where it appears to the State Government that any child kept in a special school or children's home in pursuance of this Act is a leper or of unsound mind, the State Government may order his removal to a leper asylum or mental hospital or other place of safe custody for being kept there for the remainder of the term for which he has to be kept in custody under the orders of the competent court or for such further period as may be certified by a medical officer to be necessary for the proper treatment of the child.

(2) Where it appears to the State Government that the child is cured of leprosy or of unsoundness of mind, the State Government

may, if the child is still liable to be kept in custody, order the person having charge of the child to send him to the special school or children's home from which he was removed or, if the child is no longer liable to be kept in custody, order him to be discharged.

40. Placing out on licence.—(1) When a child is kept in a children's home or special school, the State Government may, if it so thinks fit, release the child from the children's home or special school and grant him a written licence for such period and on such conditions as may be specified in the licence permitting him to live with, or under the supervision of, any responsible person named in the licence willing to receive and take charge of him with a view to train him for some useful trade or calling.

(2) Any licence so granted shall be in force for the period specified in the licence or until revoked or forfeited by the breach of any of the conditions on which it was granted.

(3) The State Government may, at any time, by order in writing revoke any such licence and order the child to return to the special school or children's home from which he was released or to any other children's home or special school, and shall do so at the desire of the person to whom the child is licensed.

(4) When a licence has been revoked or forfeited and the child refuses or fails to return to the special school or children's home to which he was directed so to return, the State Government may, if necessary, cause him to be arrested and may cause him to be taken back to the special school or children's home.

(5) The time during which a child is absent from a special school or children's home in pursuance of a licence granted under this section shall be deemed to be part of the time of his stay in the special school or children's home:

Provided that when a child has failed to return to the special school or children's home on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he has to be kept in custody.

41. Provision in respect of escaped children.—Notwithstanding anything to the contrary contained in any law for the time being in force, any police officer may take charge without warrant of a child who has escaped from a special school or a children's home or from the care of a person under whom he was placed under this Act and shall send the child back to the special school or the children's home or that person, as the case may be; and no proceeding shall be instituted in respect of the child by reason of such escape but the special school, children's home or the person may, after giving the information to the competent court which passed the orders in respect of the child, take such steps against the child as may be deemed necessary.

42. Contribution of parents.—(1) The competent court which makes an order for sending a neglected child or a juvenile delinquent to a children's home or a special school or placing the child under the care of a fit person may make an order on the parent or other person liable to maintain the child to contribute to his maintenance, if able to do so, in the prescribed manner.

(2) The competent court before making any order under sub-section (1) shall inquire into the circumstances of the parent or other person liable to maintain the child and shall record evidence, if any, in the presence of the parent or such other person as the case may be.

(3) The person liable to maintain a child shall, for the purposes of sub-section (1), include, in the case of illegitimacy, his putative father:

Provided that where the child is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1898 (Act V of 1898), the competent court shall not ordinarily make an order for contribution against the putative father, but may order the whole or any part of the sums accruing due under the said order for maintenance to be paid to such person as may be named by the competent court and such sum shall be paid by him towards the maintenance of the child.

(4) Any order made under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1898.

43. Control of custodian over child.—Any person in whose custody a child is placed in pursuance of this Act shall, while the order is in force, have the like control over the child as if he were his parent, and shall be responsible for his maintenance, and the child shall continue in his custody for the period stated by the competent court, notwithstanding that he is claimed by his parent or any other person.

44. Juvenile delinquent undergoing sentence at the commencement of the Act.—In any area to which this Act is brought into force, the State Government may direct that a juvenile delinquent who is undergoing any sentence of imprisonment shall, in lieu of undergoing such sentence, be sent to a special school for the remainder of the period of the sentence; and the provisions of this Act shall apply to the child as if he had been ordered by a competent court to be sent to such special school.

45. Removal of disqualification attaching to conviction.—Notwithstanding anything contained in any other law, the conviction of a child or the fact that a child has been found under this Act to have committed an offence shall not be regarded as a disqualification attaching to a conviction of an offence under such law.

46. Appointment of officers.—(1) The State Government may appoint probation officers, officers for the inspection of special schools, children's homes, observation homes or after-care organisations and such other officers as it may deem necessary for carrying out the purposes of this Act.

(2) Subject to any rules that may be made under this Act, it shall be the duty of the probation officer—

(a) to visit neglected children and juvenile delinquents at such intervals as the probation officer may think fit;

(b) to report to the competent court as to the behaviour of any neglected child or juvenile delinquent;

(c) to advise and assist neglected children or juvenile delinquents and if necessary, endeavour to find them suitable employment;

(d) where a neglected child or a juvenile delinquent is placed under the care of any person on certain conditions, to see whether such conditions are being complied with; and

(e) to perform such other duties as may be prescribed.

(3) Any officer empowered in this behalf by the State Government may enter any special school, children's home, observation home or after-care organisation and make a complete inspection thereof in all its departments and of all papers, registers and accounts relating thereto and shall submit the report of such inspection to the State Government.

47. Officers appointed under the Act to be public servants.—Every probation officer or any other officer appointed in pursuance of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

48. Procedure in respect of bonds.—The provisions of Chapter XLII of the Code of Criminal Procedure, 1898 (Act V of 1898) shall, as far as may be, apply to bonds taken under this Act.

49. Delegation of powers.—The State Government may, by general or special order, direct that any power exercisable by it by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by an officer subordinate to the State Government.

50. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against the State Government or any probation officer or any other officer appointed under this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

51. Act VII of 1897 and certain provisions of Act V of 1898 not to apply.—The Reformatory Schools Act, 1897 (VII of 1897) and section 29B and section 399 of the Code of Criminal Procedure, 1898 (Act V of 1898) shall cease to apply to any area in which this Act has been brought into force.

52. Power to make rules.—(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the places at which, days on which and the manner in which a children's court may hold its sittings;

(b) the procedure to be followed by a children's court or any other competent court in holding inquiries under this Act; and the mode of dealing with children suffering from dangerous diseases or mental complaints;

(c) the circumstances in which, and the conditions subject to which, an institution may be certified to be a special school or a children's home or recognised as an observation home;

(d) the internal management of special schools, children's homes and observation homes;

(e) functions and liabilities of special schools, children's homes and observation homes;

(f) the inspection of special schools, children's homes, observation homes and after-care organisations;

(g) the establishment, management and functions of after-care organisations; the circumstances in which, and the conditions subject to which, an institution may be recognised as an after-care organisation;

(h) duties of probation officers;

(i) officers to be appointed to carry out the purposes of this Act and the terms and conditions of their service;

(j) the manner in which a child may be sent outside the jurisdiction of a competent court;

(k) the manner in which contribution for the maintenance of a child may be ordered to be paid by a parent or guardian;

(l) the conditions under which a child may be placed out on licence and the form and conditions of such licence;

(m) the conditions subject to which children may be placed under the care of any parent, guardian or other fit person under this Act and the obligations of such persons towards the children so placed;

(n) any other matter which has to be, or may be, prescribed.

STATEMENT OF OBJECTS AND REASONS

The problem of juvenile delinquency was aggravated by the partition of the country six years ago and has now assumed serious proportions. In order to devise ways and means for checking the problem, a conference of Ministers of Education of various States was held in August, 1949, under the chairmanship of the Union Minister for Education.

In view of the importance of the problem of juvenile delinquency and its inter-State repercussions, the Conference recommended *inter alia* that the Government of India should appoint an Expert Committee consisting of administrators, educationists and other experts to examine the legislation at present in force in some of the States, the provision for implementation and administration of such legislation and other aspects of the problem of delinquent children, and make recommendations for their education and rehabilitation. The Conference also recommended that the Government of India should pass a Children's Act which could be used by the States with modifications, wherever necessary, to suit local conditions.

The present Bill is based generally on the recommendations of the Expert Committee. It extends to Part C States only and other States may pass similar legislation with suitable modifications to suit local conditions.

This Bill deals not only with juvenile delinquents but also with destitute and neglected children. The authorities envisaged under the Bill are Children's Courts, Observation Homes, Special Schools, Children's Homes and After-care-Organisations. The aim of the present legislation is to adjust mal-adjusted children and afford facilities to destitute and neglected children by giving them educational, social and other opportunities.

It is realised that it may not be possible for some of the Part C States, for reasons financial or otherwise, to give full effect to all the provisions of the Bill at once and it has accordingly been provided that the provisions of the Bill may be brought into force by stages.

A. K. AZAD.

NEW DELHI:

The 29th August, 1953.

FINANCIAL MEMORANDUM

The Bill contemplates the setting up of the following institutions:—

- (1) Children's Court.
- (2) Observation Home.
- (3) Children's Home and Special School.
- (4) After-care-Organisation.

As the legislation can be brought into force by stages, it is suggested that, to start with, a small machinery with one Children's Court, one Observation Home, one Children's Home and Special School may be set up. The approximate recurring expenditure will be as follows:—

One Children's Court	...	Rs. 15,000/- per year
One Observation Home	...	Rs. 12,000/- per year
One Children's Home and one Special School	...	Rs. 30,000/- per year
After-care Organisation.	...	Rs. 5,000/- per year
Total	...	<u>Rs. 62,000/- per year</u>

In the beginning, this will cost a State about Rs. 57,000/- annually. The size of the machinery may be enlarged as and when a particular State is in a position to do so.

S. N. MUKERJEE,
Secretary.